

Illinois Program Improvement Plan November 2010

NPDES Permitting for Concentrated Animal Feeding Operations

Objective 1: All Large CAFOs that discharge or propose to discharge ~~possess~~ are required to obtain NPDES permits.

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Approach:

1. By ~~January~~ February 2011, Illinois EPA CAFO permit managers will ~~confer meet~~ with all Region 5 states including their Minnesota and Michigan counterparts to learn about the systems and staffing those States employ to authorize CAFOs under general permits.

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2. Illinois EPA will establish a schedule for making a completeness determination and taking preliminary and final action on all permit applications that are pending as of November 30, 2010. By ~~January~~ February 15, 2011, Illinois EPA will provide a draft of the schedule to U.S. EPA for approval or approval with modification. Subsequent to the approval, Illinois EPA will provide a monthly status report on each application to U.S. EPA, the frequency of which calls shall be adjusted after the initial six months.

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3. By ~~July~~ August 2011, Illinois EPA will report on the outcome of a re-investigation of the 45 cases in which Illinois EPA determined that an applicant did not require a permit. The report will include conclusions and, as appropriate, recommendations for further action.

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4. ~~Illinois EPA will establish a standard operating procedure, with timelines, for making a completeness determination and taking preliminary and final action on permit applications received on and after December 1, 2010. The SOP will provide for final action not more than 180 days after receipt of an application. Where a CAFO that discharges or proposes to discharge submits an incomplete application, the SOP will provide, among other things as appropriate, for referral of the CAFO to the Illinois EPA Bureau of Water Compliance Assurance Section for enforcement. By February 2011, Illinois EPA will provide a draft of the SOP to U.S. EPA for review and approval or approval with modification. Illinois EPA will review each CAFO application received on or after December 1, 2010 for completeness within 90 days of receipt. All complete applications will be posted for public notice within 120 days of receipt. Illinois EPA will respond to all incomplete applications with a notice of incompleteness (NOI) delineating the deficiencies in the applications and requiring a response within 30 days. The Illinois EPA will issue a violation notice (VN) under Section 31 of the EPCRA or request U.S. EPA issue information collection orders under Section 308~~

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of the Clean Water Act for any applicant who has not responded or in which case the application is found to be still incomplete after the issuance of the NOI.

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5. Within 45 days of receiving a request from Illinois EPA, U.S. EPA will issue information collection orders, under section 308 of the Clean Water Act, to CAFOs that have submitted incomplete applications to Illinois EPA. Illinois EPA will refer such CAFOs to U.S. EPA within 30 days after the deadline Illinois EPA sets in a deficiency letter or Notice of Violation to the applicant.

6. By March 2011, Illinois EPA will request from the Illinois Departments of Agriculture and the Illinois Department of Public Health, enter into memoranda of agreement through which the Illinois Department of Agriculture and Illinois Emergency Management Agency will provide information about CAFOs to Illinois EPA. Illinois EPA will provide draft MOAs to U.S. EPA for review by February 1, 2011. U.S. EPA will provide comments, if any, by February 15, 2011.

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~~7. By April 2011, Illinois EPA will provide a preliminary workload assessment to U.S. EPA. The assessment will identify the number of full time equivalents required to implement an effective CAFO permitting, compliance evaluation, and enforcement program. The assessment will identify staff distribution by function and geographic area of responsibility. Illinois EPA will provide the draft assessment to U.S. EPA for review. The development of an workload assessment will be done in conjunction with the production of, and is one outcomes of, the statewide CAFO inventory. (Consequently, the workload assessment will be done when the final statewide inventory is finished, approximately 18 months after the pilot is completed in the next several months.) In the interim, the Illinois EPA will committed to hiring three new field staff and three new permit staff to work on the CAFO program.~~

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8. Newly-hired Illinois EPA CAFO permit writers will complete the NPDES Permit Writers' Course and the Nutrient Management Plan (NMP) Training for Federal and State Permit Writers, Inspectors, and Technical Assistance Providers within six months after their start date. Existing permit writers will complete the NMP Training within 30 days after it becomes available on-line. By February 15 2011, U.S. EPA will train existing permit writers on the unpermitted discharge prohibition and duty to apply for a permit in the CWA and federal regulations. U.S. EPA will train newly-hired permit writers within six months after their start date.

9. Within 30 days after publication of amendments to 35 Ill. Adm. Code, subtitle E, Illinois EPA will inform the owner of each Large CAFO in the State's inventory, in writing, about the duty to

apply for a permit and the potential consequences for failing to apply. Illinois EPA will provide a draft of the letter to U.S. EPA for review and approval or approval with modification.

10. Prior to adoption of 35 Il. Adm. Code Subtitle E amendments by the Illinois Pollution Control Board, By March 2011, Illinois EPA and U.S. EPA will complete a joint evaluation of general permit ILA01 to identify conditions that Illinois EPA could modify to streamline the process for review of NMPs and incorporation of NMP terms into the permit. For any conditions so identified, Illinois EPA will public notice draft modifications not more than 30 days after U.S. EPA's approval publication of amendments to 35 Ill. Adm. Code, subtitle E.

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11. By March 2011, Illinois EPA and U.S. EPA will jointly decide whether Illinois EPA should require permit applicants to use Manure Management Planner (MMP) (available at: <http://www.agry.purdue.edu/mmp/>) or other software as a means for streamlining the Illinois EPA process for review of NMPs and incorporation of NMP terms into permits. If the agencies decide that applicants must use MMP or other software, Illinois EPA will effectuate the decision not more than 30 days after publication of amendments to 35 Ill. Adm. Code, subtitle E. Prior to submitting amendments to Subtitle E with the Illinois Pollution Control Board, Illinois EPA and the CAFO Stakeholders Workgroup will jointly decide whether Illinois EPA should require permit applicants to use the Manure Management Planner (MMP) (available at: <http://www.agry.purdue.edu/mmp/>) or other software (such as the Illinois-specific Illinois Manure Management Plan, developed in consultation with the University of Illinois and available on the web at: <http://web.extension.illinois.edu/immmp/auth/login.cfm>) as a means of reviewing NMPs and incorporation of NMP terms into permits. Illinois EPA would require U.S. EPA financial and technical support in appropriate training in the review of applications that use the MMP and other software.

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12. Within 30 days after Illinois EPA authorizes a CAFO under a permit, Illinois EPA will enter data for the CAFO into the Integrated Compliance Information System (ICIS).

Indicia of Progress: By June 30, 2011, 76 Large CAFOs will possess NPDES permits¹. For other applicants, Illinois EPA takes final action within 180 days of receipt of the application. By June 30, 2011, for applications submitted prior to March 31, 2011 Illinois EPA will have issued permits to, have posted for public notice or otherwise have under review or enforcement, as detailed in the SOP in response to Approach 4.

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¹ Illinois EPA can simply write to the applicant to suggest that he or she withdraw the application if the applicant goes out of business or Illinois EPA determines that the facility is not a CAFO. Illinois EPA will document the facts and keep the letter in its files.

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Objective 2: U.S. EPA approves amendments to 35 Ill. Adm. Code, subtitle E, which (1) reflect the 2003 and 2008 revisions to the federal regulations for CAFOs, (2) establish protective technical standards for nutrient management by Large CAFOs, and (3) require the owners or operators of all Large CAFOs to register with Illinois EPA.

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Approach:

1. Illinois EPA will provide draft amendments to 35 Ill. Adm. Code, subtitle E, to U.S. EPA for review by December 1, 2010. U.S. EPA will provide comments and recommendations within 45 days of receipt. Illinois EPA will revise the draft to resolve U.S. EPA's comments and provide the revised draft to U.S. EPA within 30 45 days after receipt of the comments and recommendations. U.S. EPA will provide any remaining comments and recommendations within 15 days.

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2. Within 45 90 days after receipt of U.S. EPA's comments and recommendations on the revised draft, Illinois EPA will file the amendments as a proposed amendatory rulemaking with recommend that the Illinois Pollution Control Board propose the amendments for the purpose of requesting public comment.

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3. As appropriate, U.S. EPA will communicate its position on the amendments to the Board as the Board decides whether to propose the amendments.

4. If Illinois EPA requests, U.S. EPA will provide support to organize and respond to public comments on the proposed amendments.

5. Within 30 45 days after the amendatory rulemaking becomes effective publication, Illinois EPA will submit the final amendments to U.S. EPA for approval under 40 C.F.R. §123.62.

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6. Within 30 60 days after publication of the effective date of the amendatory rulemaking amendments, Illinois EPA will revise its permit application forms and public notice draft modifications to general permit ILA01 as appropriate based on the amendments.

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Indicia of Progress: U.S. EPA does not have comments on the revised draft amendments. The Illinois Pollution Control Board proposes amendments within 60 days after receipt of the draft from Illinois EPA. Illinois adopts the amendments within six months after proposal. U.S. EPA approves the amendments within 90 days of receipt. The amendments to Subtitle E ensure compliance with the 2003 and 2008 revisions to the federal CAFO regulations. Within 90 days after the receipt of U.S. EPA's approval of the revised draft, Illinois EPA will propose Subtitle E to the Illinois Pollution Control Board. Illinois EPA implements the amendments upon becoming effective.

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NPDES Compliance Monitoring and Enforcement for CAFOs

Objective 1: To detect and report all federally actionable violations and sufficiently document them in order to support formal enforcement.

Approach:

~~1. Illinois EPA will develop and implement a strategy for evaluating all AFOs that are likely to be Large CAFOs. By February 28, 2011, Illinois EPA will provide a draft strategy to U.S. EPA for review and approval or approval with modification. The strategy will reflect the following:~~

~~a. creation of an interim inventory using existing lists of known and potential CAFO sites developed by Illinois EPA regional offices, permit applications, citizen tips and complaints, and information from U.S. EPA, the Illinois Department of Agriculture and the Illinois Emergency Management Agency. Illinois EPA will develop an interim inventory and enter the facilities into ICIS by February 28, 2011. The inventory will be made readily available to Illinois EPA and U.S. EPA staff.~~

~~b. The strategy will also include a plan to expand the interim inventory into a comprehensive inventory of Large CAFOs. The strategy will include a process for updating and maintaining the inventory and entering information for all CAFOs into ICIS.~~

~~c. The strategy will identify a standardized process for on-site evaluation of every potential Large CAFO for full evaluation during wet weather conditions to determine if the AFO is a CAFO under state or federal regulation. The strategy will ensure that Illinois EPA performs a comprehensive inspection at each potential Large CAFO by April 2012.~~

~~d. Illinois EPA will develop a CAFO inspection standard operating procedure by February 28, 2011. The SOP will be written to enable the inspector to determine whether CAFOs discharge or propose to discharge during wet weather. The SOP should include pre-inspection preparation, access procedures, site visit conduct and inspection timing, sampling, and post inspection procedures including report format and content and discharge documentation. Illinois EPA will provide the SOP to U.S. EPA for review and approval or approval with modification.~~

1. Illinois EPA will develop a strategy for reviewing all AFOs that are likely to be CAFOs, consistent with the following:

a. Illinois EPA will develop a pilot inventory for seven high profile counties with large livestock populations using a GIS-based tool. This pilot will be completed in January 2011 and field tested to verify accuracy. Field testing will be completed by March 31, 2011.

b. Once the pilot has been verified, Illinois EPA will seek financial and technical assistance and approval to complete the system for the entire state, to be done in stages for areas with high livestock populations.

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c. As the inventory tool is populated, Illinois EPA will develop a strategy for the inspection of all large and other CAFOs, consistent with staffing resources and in consultation with U.S. EPA. This strategy will begin with the pilot (seven county) inventory and will be finalized by May 1 2011. The development of and completion date for the final strategy will be dependent on the completion of the statewide inventory.

d. Illinois EPA will develop a CAFO inspection standard operating procedure by July 31, 2011. The SOP will be written to enable the inspector to determine whether CAFOs discharge or propose to discharge during wet weather. The SOP should include pre-inspection preparation, access procedures, site visit conduct and inspection timing, sampling, and post inspection procedures including report format and content and discharge documentation. Illinois EPA will provide the SOP to U.S. EPA for review and approval or approval with modification.

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2. Illinois EPA will organize an initial training for all its field inspectors and office enforcement staff to effectively evaluate CAFOs that are in the ~~interim~~ inventory. Training will cover the approved SOP including pre-inspection preparation, inspection conduct, post-inspection follow-up and documentation, review of compliance data (i.e., overflow reports, discharge monitoring reports, Single Event Violations (SEVs), wet weather significant noncompliance (SNC) determinations, and complaints), new violation processing procedures instituted under this program improvement plan, and identification of new facilities/discharges. By ~~June~~ ~~March~~ 2011, ~~U.S. EPA and~~ Illinois EPA compliance and enforcement staff will conduct ~~this~~ training. ~~The Illinois Attorney General's Office staff will be invited to participate, supplemented by U.S. EPA staff. By February 1, 2010, Illinois EPA will provide a proposed agenda for approval or approval with modifications by U.S. EPA. U.S. EPA will review training materials.~~

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3. By ~~May~~ ~~June~~ 1, 2010, Illinois EPA will develop and provide to U.S. EPA a long-term CAFO inspector training curriculum for all staff conducting CAFO inspections. ~~The curriculum will be completed by all existing CAFO inspectors and their first line supervisors by August 2011. New staff will complete the curriculum within six months of their start date. New staff will complete the curriculum prior to conducting inspections independently. The curriculum will cover all State and federal CWA-related matters. At a minimum, it will include the requirements outlined in Attachment A (i.e., inspector training required under U.S. EPA internal order 3500.1).~~

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4. Illinois EPA will develop an annual site-specific CAFO inspection plan which ensures inspection at a minimum of 20 percent of the CAFOs identified in the most recent inventory, consistent with the National Compliance Monitoring Strategy. Illinois EPA will provide the plan to U.S. EPA by September 1 of each year for approval.

~~5. Illinois EPA will establish a CAFO evaluation committee by February 1, 2010. This committee will conduct a post inspection review of each AFO related inspection. The committee will meet each month to review the findings and documentation, including the determination of whether the facility meets the definition of a CAFO, areas of non-compliance, wet weather SNC determinations, violations detected, documentary evidence, and recommendations for correcting the violations. Illinois EPA will provide the results to U.S. EPA and Illinois EPA's Enforcement Decision Group (EDG), using a template developed by U.S. EPA to facilitate data collection. At its existing Compliance Group monthly meetings Illinois EPA will review the findings and documentation for a determination of whether the facility meets the definition of a CAFO, areas of non-compliance, wet weather SNC determinations, violations detected, documentary evidence, and recommendations for correcting the violations. Illinois EPA and U.S. EPA will confer monthly to review the findings and documentation of all CAFO noncompliance cases beginning with those initiated in 2009.~~

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6. During FY 2011, U.S. EPA will conduct oversight inspections of a minimum of five Illinois EPA NPDES or livestock inspections to evaluate the effectiveness of the State inspection program. U.S. EPA inspectors will document their findings, and evaluate the thoroughness and scope of prior Illinois EPA inspections as well as the appropriateness of the record-keeping and reporting associated with the inspections. U.S. EPA will provide copies of these inspection reports to Illinois EPA within 60 days of completion. U.S. EPA will also conduct independent inspections at additional AFOs with suspected wet weather discharges. U.S. EPA will invite Illinois EPA participation where appropriate. U.S. EPA will initiate any appropriate follow-up enforcement consistent with existing State/U.S. EPA enforcement communication agreements and the Environmental Performance Partnership Agreement.

7. By June 2011, Illinois EPA will develop a citizen complaint SOP and database for AFOs/CAFOs. The database will include a field recording the response to the complaint and a written report of results to the complainant. Illinois EPA will provide a report of the complaints received and disposition of them to U.S. EPA monthly the frequency of which shall be adjusted after the initial six months.

~~8. By February 28, 2011, Illinois EPA will prepare a draft strategy for ensuring 24 hour spill/release response capability which includes on site presence or a trained inspector, sampling personnel, and equipment. The strategy will include assurance that laboratory capabilities and services are sufficient to complete data analysis within prescribed holding times for pollutants of concern. This plan must specifically address maintenance of those capabilities for those events which occur at night, on weekends, and on holidays. Illinois EPA will provide this strategy to U.S. EPA for review and approval or approval with modifications.~~

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Indicia of Progress: A consolidated inventory of Large CAFOs has been created, is maintained in ICIS, and is easily accessible to all Illinois EPA staff. Illinois EPA will conduct inspections at all potential Large CAFOs identified in the initial inventory consistent with a comprehensive inspection plan that has been jointly agreed upon with U.S. EPA. ~~A comprehensive inspection has been conducted at all potential Large CAFOs on the initial inventory by April 2012. A satisfactory training program for inspectors has been implemented. A timely Emergency Response to all reported CAFO-related discharges is implemented.~~ One hundred percent of Single Event Violations and wet weather SNCs are identified and recorded in ICIS.

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Objective 2: To properly track and efficiently resolve newly-identified violations

Approach:

~~1. Illinois EPA will revise the Enforcement Response Plan (ERP) attached to its Enforcement Management System (EMS) in a manner designed to improve the timely and appropriate response to violations detected at CAFOs and ensure a prompt return to compliance². Illinois EPA will provide the revised ERP/EMS to U.S. EPA by May 2011. The ERP will require all Large CAFOs to obtain an NPDES permit where the CAFOs discharge or propose to discharge. It will require all Medium AFOs to obtain a permit where the AFO meets the definition of a CAFO. Illinois EPA will use wet weather SNC principles as an aid to determine the appropriate enforcement response in the ERP. Illinois EPA will submit the ERP/EMS to U.S. EPA for review and approval or approval with modifications. Illinois EPA will provide training on the new ERP to all staff working on AFO/CAFO issues. Illinois EPA will fully adopt and implement the ERP/EMS within 30 days of U.S. EPA approval or approval with modifications.~~

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Illinois EPA's Bureau of Water will revise its Enforcement Response Guide (ERG) in a manner designed to improve the timely and appropriate response to violations detected at CAFOs and ensure a prompt return to compliance. Illinois EPA will submit the revised ERG to U.S. EPA by February 1, 2011 for review. The ERG will require all large CAFOs to apply for and obtain an NPDES permit where the CAFO discharges or proposes to discharge. The ERG will also require all medium AFOs to apply for and obtain a NPDES permit where the AFO meets the definition of a CAFO. In addition, the ERG will reflect the Wet Weather SNC Policy in the determination of SNC as well as the appropriate enforcement response. All staff working on AFO/CAFO issues will be trained and the revised ERG will be implemented.

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~~2. No later than May 2011, Illinois EPA will issue violation notices (VNs) for all significant noncompliance detected at CAFOs, within 180 days of Illinois EPA becoming aware of the alleged violation, pursuant to Section 31(a) of the Illinois Environmental Protection Act (Act). The VN will contain a recommended remedy and schedule for implementation ("compliance~~

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² The ERP/EMS should include systems and procedures which assure timely and appropriate response to violations detected at other sources as well.

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schedule”). This compliance schedule will form the basis for discussions if a respondent should request a meeting pursuant to Sections 31(a)(2)(C) and 31(a)(5) of the Act. Response times will adhere to the statutory turnaround days provided in Section 31. Illinois EPA will accept a Compliance Commitment Agreement only when it binds the respondent to the requirements and timeframes set forth in the compliance schedule of the VN, and provides a deadline for follow up inspection. Ongoing or recurring violations will have a shortened response time. For conditions which constitute an imminent or substantial endangerment to human health, the environment or property, Illinois EPA will immediately refer the case to the Illinois Attorney General’s office pursuant to Section 43 of the Act. By May 1, 2011, the Illinois EPA will issue Violation Notices (VNs) for all significant noncompliance detected at CAFOs, within 180 days of becoming aware of the violations, pursuant to Section 31(a) of the Illinois Environmental Protection Act (Act). The VNs will include recommended remedies and schedules for implementation, as appropriate. CCAs will be accepted when they bind the respondents to the requirements and timeframes recommended in the VNs. For violations that constitute an imminent or substantial endangerment to human health, the environment or property, Illinois EPA will immediately refer the case to the Illinois Attorney General’s office pursuant to Section 43 of the Act

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3. In cases where the facility does not respond to the VN or proposes a remedy that is less effective than the remedy proposed by Illinois EPA, Illinois EPA will immediately act to complete the necessary pre-referral actions under Section 31 that will allow Illinois EPA to formally refer the matter to the Illinois Attorney General’s office or the State’s Attorney of the county in which the alleged violation occurred. Simultaneously, Illinois EPA will refer the case to the Enforcement Decision Group for pre-referral consideration of the case.

~~4. The EDG will be comprised of Illinois EPA program and legal managers and Illinois Attorney General’s office managers. They will meet weekly to ensure a return to compliance in each matter referred to them. The EDG will thoroughly review all matters for the purpose of ensuring timely resolution of each referred case. If during the EDG review the Illinois Attorney General’s office determines that the case should be resolved in a manner other than the referral of the case to it, the EDG can consider other options for resolution including referral to the State’s Attorney in the county in which the alleged violation occurred or referral to U.S. EPA. Decisions of the EDG will be documented and maintained.~~

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5. For matters that the EDG decides will be referred to the Illinois Attorney General’s office, no later than May 2011, Illinois EPA will provide a copy of the referral to U.S. EPA, prepare a litigation summary including a penalty recommendation (outline of the contents to be approved by U.S. EPA) by an agreed date, for transmittal to the Attorney General’s office with a copy to U.S. EPA.

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~~6. Beginning no later than January 2011, the Illinois Attorney General's office will provide to Illinois EPA (with a copy to U.S. EPA) quarterly updates on the status of referred CAFO cases, and affirm agreement on settlement terms and the path to resolution.~~

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7. Beginning no later than January 2011, Illinois EPA will provide a quarterly report to U.S. EPA and conduct a joint call as to the status and disposition of every CAFO matter considered by the EDG.

Indicia of Progress: No extended periods of negotiation for Compliance Commitment Agreements. Illinois EPA consistently follows the approved ~~EPP~~ **ERG**. No State-lead enforcement cases result in an overfile by U.S. EPA.

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Objective 3: To assure that existing, unresolved enforcement matters are properly tracked and efficiently processed.

Approach:

1. Beginning in January 2011, Illinois EPA program and legal managers, Illinois Attorney General's office managers, and U.S. EPA program and legal managers will conduct a quarterly docket review of all referred CAFO matters and all open federal enforcement cases. Participants will agree on the lead agency, path to resolution (including target dates), appropriate penalty resolution, and desired results. Illinois EPA will document decisions.

2. By July 2011, ~~Illinois EPA and U.S. EPA legal staff will provide training to Illinois Attorney General's office staff, and include Illinois EPA,~~ on legal issues relevant to CAFO enforcement and litigation, including U.S. EPA penalty policies.

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Indicia of Progress: All pending matters meet agreed-upon schedules for action and resolution, decisions affecting case progress are expeditiously made, and barriers are removed. ~~The time during which pending matters remain on the docket will be reduced by half in one year.~~ Newly-referred matters placed on the docket will progress as expeditiously as possible.

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CAA Title V Permitting

Objective 1: Issue Clean Air Act Permit Program (CAAPP) permits pursuant to the Clean Air Act and 40 C.F.R. Part 70

Approach:

1. Effective immediately, an Illinois EPA manager will review all draft permits and project summaries before they are public noticed to ensure that the CAAPP permits and project

summaries include, at a minimum, the following elements required by the CAAPP: all applicable requirements, periodic monitoring sufficient to assure compliance, compliance assurance monitoring where applicable, compliance schedules where appropriate, origin and authority for all permit terms, and practicably enforceable terms.

2. Effective immediately, Illinois EPA will begin to review all incoming CAAPP applications to ensure minimum technical and administrative completeness. Illinois EPA should not provide an application shield to any source which does not submit an application containing the minimum information necessary to issue a permit. However, establishing a requirement for certain information in an application does not preclude Illinois EPA from requesting additional information as necessary during processing of the application.

3. By January 15, 2011, Illinois EPA will develop and seek U.S. EPA input on a completeness checklist. At a minimum, the checklist should provide that, to be considered complete, an application must include a justification for non-applicability determinations and periodic monitoring requests (including the methods by which the permittee should monitor emissions; how frequently the measurement should be taken; and, if the measurements are indirect (parametric), how the measured values relate to actual emissions from the source).

4. U.S. EPA will timely provide Illinois EPA with the most recent guidance documents, petition orders, and Title V regulations and will be available at least once a month to discuss how these policies will impact and be implemented by Illinois EPA.

5. By January 2011, Illinois EPA will develop a mechanism to ensure that its permit analysts understand and are equipped to fully implement the requirements of the Clean Air Act, 40 C.F.R. Part 70, and U.S. EPA's guidance and policies. This mechanism could include weekly section meetings to discuss recent U.S. EPA permit comments, applicability determinations, and petition orders; informal training on topics such as effective permit writing, periodic monitoring justification writing techniques, or permit-specific issues; and formal training that U.S. EPA can provide or help Illinois EPA develop. U.S. EPA is available to attend these meetings and answer permit-specific questions in Springfield at least monthly.

6. By February 2011, U.S. EPA and Illinois EPA will re-open and revise the existing Title V implementation memorandum of understanding to provide that Illinois EPA will make available to U.S. EPA its response to comments prior to the start of U.S. EPA's 45-day period to review a proposed permit, and to provide that Illinois EPA will public notice for 30-days (or longer) a draft Title V permit, and will provide a sequential 45-day period for U.S. EPA's review of the proposed permit. U.S. EPA's 45-day review period will begin when Illinois EPA provides U.S. EPA with its response to comments and a proposed permit revised to address all substantive comments received during the public comment period. However, this provision will not prevent U.S. EPA from waiving any portion of the 45-day review period remaining after it has completed

its review. Once Illinois EPA has met the stated objectives of this plan, U.S. EPA may re-open the implementation memorandum of understanding concerning this issue.

7. Effective immediately, U.S. EPA will, at a minimum, review and comment on one draft permit per month. Illinois EPA will work with U.S. EPA to address these comments.

8. U.S. EPA will work with Illinois EPA on the revised permit for the U.S. Steel – Granite City Works to ensure that the responses to comments are complete and in sufficient detail. U.S. EPA is focusing on the U.S. Steel – Granite City Works CAAPP permit because it is timely, and includes a spectrum of issues that U.S. EPA believes can foster a common understanding of expectations and approaches to issuing CAAPP permits.

Indicia of Progress: U.S. EPA expects to see a decline in repetitive comments over time. U.S. EPA does not find grounds to object to permits.

Objective 2: Significantly reduce CAAPP permit issuance backlogs

Approach:

1. By December 15, 2010, Illinois EPA senior management will reinforce to staff, in writing, that issuing CAAPP operating permits is a priority. Illinois EPA senior management will also take every opportunity to identify issuance of CAAPP permits as a priority, such as through e-mails, speeches, and the identification of priorities.
2. By February 2011, Illinois EPA will develop goals, review them with U.S. EPA, and clearly lay out for Illinois EPA staff expectations for CAAPP permit issuance. Illinois EPA senior management will develop and post in the office visual displays of the goals and expectations along with a measure of Illinois EPA's success in meeting the goals.
3. By May 2011, Illinois EPA will assess its CAAPP permit issuance process and permit format to determine where the process can be shortened and the time needed to issue a CAAPP permit minimized. (Examples of possible streamlining approaches would be to issue construction permits that are in the same format as CAAPP permits and that comply with the same requirements as CAAPP permits, update the format of the CAAPP permits to be more streamlined, and reduce the amount of time to get additional information from applicants.) U.S. EPA is available to participate in this process.
4. Illinois EPA will implement the recommendations of the streamlining assessment by August 2011.

5. By January 2011, Illinois EPA will develop and implement a plan to significantly increase the permit issuance rate of federally enforceable state operating permits, or FESOPs, to sources that have applied for synthetic minor limits to avoid CAAPP applicability.

Indicia of Progress: By May 2011, Illinois EPA will issue at least four final CAAPP permits from the backlog. By November 2011, Illinois EPA will issue a cumulative total of at least 10 final CAAPP permits from the backlog. By May 2012, Illinois EPA will issue a cumulative total

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of at least 20 final CAAPP permits from the backlog. By November 2012, Illinois EPA will issue a cumulative total of at least 32 final CAAPP permits from the backlog.

Objective 3: Minimize the length of time permits are stayed due to appeals to the Illinois Pollution Control Board

Approach:

1. Illinois EPA will address appeals in a timely and proactive manner. Illinois EPA will not extend the negotiations of the settlement of the appeal unduly.
2. By May 2012, Illinois EPA will address the appeals to the utility permits first with a goal of issuing the final utility CAAPP permits.

Indicia of Progress: The docket of pending appeals will be reduced by one quarter in one year and three quarters in two years.

Air Enforcement

Objective 1: To detect all federally reportable violations and sufficiently document them in order to support formal enforcement

Approach:

1. Illinois EPA will organize training for its field inspectors and office enforcement staff. Training will cover pre-inspection preparation, inspection conduct, post-inspection follow-up and documentation, review of compliance data (i.e., stack tests, continuous emission monitoring, continuous opacity monitoring reports, deviation reports), and new violation processing procedures instituted under this program improvement plan. Illinois EPA enforcement staff will conduct training supplemented with U.S. EPA staff. Illinois EPA will provide a proposed agenda to U.S. EPA for approval. U.S. EPA will review training materials. Illinois EPA will provide the draft agenda to U.S. EPA by December 1, 2010, and complete training by January 2011.
2. By December 15, 2010, Illinois EPA will compose a technical screening committee, consisting of Illinois EPA's top three technical staff appointed by Illinois EPA with input from U.S. EPA. The committee will consult with field inspectors prior to each inspection to review methods of evaluation, applicable regulatory requirements, and necessary documentation specific to that investigation. Post inspection, the committee will meet with each inspector to review the findings and documentation, and identify areas of non-compliance and remedies. Each week, the committee will identify, through email, using a template designed by U.S. EPA, each violation

detected, whether it is ongoing or potentially recurring, the nature of documentary evidence, and recommendations for correcting the violation to Illinois EPA's Enforcement Decision Group, the Illinois Attorney General's office, and U.S. EPA.

Indicia of Progress: At least a 50 percent increase, over FY 2010 levels, in federally-reportable violations detected in FY 2011. Documentation supporting violations is sufficient to ultimately resolve 100 percent of the violations through negotiation or litigation, as partially evidenced by the number of cases that the violation tracking committee (see below) refers back to technical staff due to insufficient information.

Objective 2: To properly track and efficiently resolve newly identified violations

Approach:

1. By December 2010, Illinois EPA will institute a new violation tracking committee, composed of Illinois EPA program and legal managers and Illinois Attorney General's office managers. The technical screening committee will present each violation detected during the previous week, detailing supporting evidence, desired corrective action, and expected environmental benefits. The committee will prioritize ongoing or recurring violations for expedited Violation Notices (VNs), preliminarily identify violations that may require formal resolution, and direct insufficiently supported cases back to the technical staff for follow-up. Decisions will be documented and maintained.
2. Beginning in December 2010, Illinois EPA will issue VNs containing a recommended remedy and schedule for implementation. Ongoing or recurring violations will have a shortened response time.
3. Non-responses to VNs or responses without a commitment to a remedy that is at least as effective as that proposed by Illinois EPA will be immediately referred to the EDG.
4. The EDG will be comprised of Illinois EPA program and legal managers and Illinois Attorney General's office managers. They will meet weekly to dispose of matters referred to them. U.S. EPA presumes that most matters referred to the EDG will be referred to the Illinois Attorney General's office unless that office declines. If the Attorney General's office declines, the EDG can consider other options for resolution. Decisions of the EDG will be documented and maintained.

5. For matters that the EDG decides will be referred to the Attorney General's office, Illinois EPA will prepare a litigation summary (outline of contents to be designed by U.S. EPA), by an agreed date, for transmittal to the Attorney General's office.

6. Beginning in December 2010, the Illinois Attorney General's office will provide to Illinois EPA quarterly updates of the status of referred cases, and affirm agreement on settlement terms and path to resolution.

Indicia of Progress: No extended periods of negotiation for Compliance Commitment Agreements. One hundred percent increase in cases referred to the Illinois Attorney General's office over FY 2010 levels.

Objective 3: To assure that existing, unresolved enforcement matters are properly tracked and efficiently processed.

Approach:

Beginning in December 2010, Illinois EPA program and legal managers, Illinois Attorney General's office managers, and U.S. EPA program and legal managers will conduct a semi-annual docket review. Participants will review the status of each unresolved federally-reportable state-initiated violation (post VN); agree upon the lead agency, path to resolution (including target dates), and appropriate penalty resolution; and affirm desired results. Decisions will be documented.

Indicia of Progress: All pending matters will be closely monitored through ultimate resolution, decisions affecting case progress will be expeditiously made, and barriers will be removed. The docket of pending matters will be reduced by half in one year.

Compliance and Enforcement State Review Framework

In October 2010, U.S. EPA sent Illinois EPA a draft State Review Framework report with findings and recommendations. Approaches to recommendations from the report are provided below, with activities to be completed by January 2011.

At U.S. EPA's request, Illinois EPA recently responded with comments on the report. Both Agencies will work together to create a final report in the near future with any needed modifications to the activities below.

Resource Conservation and Recovery Act

1. Review current data entry procedures to address issues found in the SRF review, and provide written procedures and training to staff to resolve data entry problems.
2. With U.S. EPA, discuss changes to current practice that could lower the number of sites in violation for greater than 240 days and not re-designated as Significant Noncompliance (SNC). Illinois EPA will write any changes into a standard operating procedure.
3. With U.S. EPA, discuss the identification rate for violations at sites with inspections to understand why this rate is significantly lower than U.S. EPA's. If an issue exists, Illinois EPA will create standard operating procedures to improve its identification rate.
4. Develop a plan with guidelines and standard operating procedures to identify Significant Non-Compliers. The plan will include training for staff on the completeness of inspection reports, SNC identification criteria, and timely SNC determinations. It will also include a mechanism for management oversight to ensure consistency.
5. With U.S. EPA, discuss the reasons for actions not consistently being timely and appropriate. Illinois EPA will write solutions to this issue into Illinois EPA standard operating procedures.
6. With U.S. EPA, jointly decide on appropriate documentation for penalties, and record these requirements in standard operating procedures.

Clean Air Act

1. Formalize standard operating procedures for moving cases through the enforcement process. The procedures will include quality assurance of all minimum data requirements (MDRs) reported to Air's Facility System (AFS), and will ensure that information is complete and accurately entered in Illinois EPA's internal databases. Illinois EPA will also include representatives from the Division of Legal Counsel on the monthly conference calls with U.S. EPA to discuss State-lead enforcement cases, specifically high priority violations (HPVs). In addition, Illinois EPA should provide training for staff that will be responsible for reporting MDRs to U.S. EPA, including linking the discovery date in the HPV pathway in AFS.
2. Ensure that all elements of full compliance evaluations (FCEs), as defined by the national Compliance Monitoring Strategy, are met when reporting evaluations to AFS as FCEs. Illinois EPA will develop a plan that includes guidelines, standard operating procedures, and oversight for the completion of FCEs.

3. Develop a plan that includes guidelines, standard operating procedures, and oversight for the completion of compliance monitoring reports (CMRs). Illinois EPA should consider using a checklist to identify all emission units, applicable requirements, required records, and applicable pollutants, including what was specifically observed for the FCE and what was found.
4. Beginning immediately, report and maintain accurate, complete, and timely data to AFS. Illinois EPA will report all MDRs with an accurate compliance determination, including those regarding failed stack tests, as committed and agreed upon in the FY2010-2011 Environmental Performance Partnership Agreement. Solutions to issues identified in the SRF report will be written into standard operating procedures.
5. Consistently use Illinois EPA's Violator Classification form and include the form in the CMRs or facility case files when classifying sources as HPVs or significant violations. Solutions to issues identified in the SRF report will be written into standard operating procedures.
6. With U.S. EPA, continue discussing alternatives for resolution of HPVs which are acceptable under EPA's HPV policy. Illinois EPA will write solutions into standard operating procedures.
7. Develop a penalty calculation worksheet to be used and included in the case file. The worksheet should include economic benefit and gravity components in the penalty calculation. If Illinois EPA determines that there is no economic benefit in a particular case, the worksheet should document the basis for this determination. If the economic benefit information is unavailable prior to referral to the Attorney General's office, the lack of information will be documented in the facility case file. If the Attorney General's office provides such information after the case has been referred, Illinois EPA will place that information in the case file.
8. With U.S. EPA, discuss the penalty calculation documentation which is required for enforcement case files, including for cases involving HPVs. Illinois EPA will incorporate agreed-upon requirements in standard operating procedures.

Clean Water Act

1. Review current data entry procedures to reconcile issues found in the SRF review. Illinois EPA will provide written procedures and training to staff to resolve data entry problems.
2. Develop a plan that includes guidelines, standard operating procedures, and oversight for the completion of inspection reports.
3. Develop a plan that includes identification of violations and resolution of compliance schedule and permit schedule violations. Illinois EPA will write solutions into standard operating procedures.

4. With U.S. EPA, discuss appropriate use and coding of Compliance Commitment Agreements and develop solutions that are consistent with U.S. EPA policy. Illinois EPA will write solutions into standard operating procedures.

5. With U.S. EPA, jointly decide on appropriate documentation for penalties. Illinois EPA will reflect the result of this decision in standard operating procedures.

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